

December 2, 2004

**VIA ELECTRONIC MAIL**

Mr. Tim Hall  
CA Integrated Waste Management Board  
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Mr. Dmitri Smith  
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**RE: WPHA Comments in the Development of Working Definitions within the Environmental Justice Action Plan and Pilot Projects.**

Dear Mr. Hall and Mr. Smith:

On behalf of the WPHA, I am submitting comments working definitions for Cal-EPA's Environmental Justice Action Plan and proposed Environmental Justice Pilot Projects. We appreciate the opportunity to provide these comments.

**Developing Definitions for Environmental Justice Programs**

At the recent Environmental Justice workshops held by Cal-EPA, the agency stated it was working to establish working definitions for "precautionary approaches".

WPHA believes these definitions must be clearly defined, and should be established prior to the start of the pilot projects, so all parties; both businesses and communities understand what the parameters and scope of pilot projects. Defining this term for the environmental justice program will take more than one round of comments, and the lead agencies responsible for developing these definitions should engage in ongoing discussions with all interested groups to finalize these definitions.

**Precautionary Approaches**

WPHA supports the use of the term "precautionary approach or approaches" within the Environmental Justice Action Plan. This term should be clearly defined. WPHA supports the definition developed by the "U.S. Commission on Ocean Policy" and refined by the "CA Council for Environmental & Economic Balance" that states:

“Precautionary approach” means the application of judicious and responsible decision making based on best available science and on the weighing of the level of scientific uncertainty and the potential risk of damage. A precautionary approach is based on the recognition that the absence of full scientific certainty shall not be used as a reason for postponing decisions where there is a risk of serious or irreversible harm.

This definition supports the utilization of science-based assessments and decision making. While coming to a final definition for precautionary approach may require additional discussion, we believe this definition is a sound basis for a discussion. While we support this definition we believe the following guidelines should be implemented to assure that the Action Plan and Cal-EPA pilot projects are developed in a reasonable manner.

- Triggering an evaluation of a precautionary approach should be based on sound scientific evaluations.
- The criteria for triggering a precautionary approach evaluation should be clearly defined.
- Reasonable, cost effective approaches should be utilized in the development of precautionary approaches, and the evaluation of alternatives.
- The process should recognize that there is no such thing as “risk free.”
- An evaluation of a precautionary approach should be transparent.
- The use of a precautionary approach should include an cost-benefit analysis that identifies the secondary impacts of a decision. The impact on jobs and business climate

### **Closing Comments**

WPHA applauds the success the Cal-EPA has had in improving environmental protection. We support Cal-EPA’s ongoing effort to fill gaps in environmental protection, and their awareness of the need to continue to address environmental issues. We support the administrations ongoing effort to improve California’s business climate while maintaining our leadership position in environmental protection.

We believe that it important that while Cal-EPA continues to address environmental justice issues that it maintains its awareness of the impact of regulations on the business climate. While we support the concept of precaution, businesses should not be put into a position of proving a negative, and that decisions are based on objective, science-based decisions, and not subjective or arbitrary decisions.

Clearly, environmental justice is a challenging and important issue. We appreciate Cal-EPA’s leadership to address this issue, and will continue to work with you on addressing it. Thank you for your consideration of our comments. Please feel free to contact me with any questions you may have related to this letter.

Sincerely,

Renee Pinel  
Director of Policy & Legislation

Cc: The Honorable Terry Tamminen  
The Honorable James Branham  
Ms. Tam Duloc  
Mr. Louie Brown